AN ESSAY ON THE ACT OF POYNINGS, AND THE PRESENT MODE OF APPEAL.

ADDRESSED TO

THE RIGHT HONORABLE

WILLIAM EDEN,

PREVIOUS TO HIS BECOMING

A MEMBER of the PARLIAMENT of IRELAND.

Propositâ invidiâ, morte, pœna, qui nihilo Segnius rempublicam defendit, is vir vere putandus est.

DUBLIN:

PRINTED BY WILLIAM HALLHEAD,
No. 63, DAME-STREET.

M.DCC.LXXXI.

1608/3190.

SED quis non intelligit, omnes tibi reipublicæ partes ægras & labantes, ut eas ſanares & confirmares, eſſe commiſſas? Noli igitur in conſervandis bonis viris defatigari. De nobis, quos in republica tecum ſimul ſalvos eſſe voles, quoties cogitabis toties de maximis tuis beneficiis, toties de liberalitate toties de ſingulari ſapientia tua cogitabis; quæ non modo ſumma bona, ſed nimirum audebo vel ſola dicere. Homines enim ad deos nulla re proprius accedunt, quam ſalutem hominibus dando: nihil habet nec fortuna tua majus, quam ut poſſis; nec natura tua melius, quam ut velis, conſervare quamplurimos.

AN

ESSAY

ON THE

Act of POYNINGS.

OUR preſent meaſures are ſo very alarming, and the effects deducible by analogy ſo very calamitous, that every intereſted and ſpeculative mind muſt feel a warmth and indignation ariſe againſt the fomentors of faction, yet tremble at the proceſs of a deluded people. A people, ſimilar to others, liable to be led on by demagogues, to become violent in the purſuit of what they are told is liberty, told by the deceitful tongue of ambition, malice, or revenge, they graſp, they ſtruggle, in hopes to ſeize this viſionary prize, but behold, alas! they periſh in the attempt, or are at beſt ſupported but by a Tyrant's

arm. Unhappy men! ignorant of the fate of our greateſt kingdoms, they would ſubvert the principles of prudence and ſchemes of wiſdom, expel the inſtitutions of ſage antiquity, ſubſtitute the dictates of rebellious ſpirits, or diſappointed rage, and thus introduce the domeſtic evils of rapine and ruin, with all the concomitant horrors of havoc and foreign devaſtation. They ſtrive not to prevent, but apparently court each hoſtile invaſion, diſtracting with their broils that power which ſhould ſupport our peace and dignity, haſtening with gigantick ſtrides to overturn the balance of our ſtate, and exerting themſelves but to deſtroy the felicity of this iſle. The courſes which they purſue could be pointed out but by madneſs, or perſevered in but by folly; from their raſh premiſes can never be drawn the concluſions wiſhed; their acts announce a deſire to eſtabliſh a *dominatio plebis*; but let them beware, leſt, unable to ſubdue or to ſupply the flame they once have kindled, they ſhould fall a deſerved, yet deteſted ſacrifice to blind ſedition. They cauſe

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ſtruggles in the ſtate from diſeaſes of deluſion, that tend not to our momentary affliction, that tend not to our annihilation, but are mere chimeras of fancy and turbulent imagination, formed by the force of faction, and foſtering evils in idea.

Who, in the name of God, that hath conſulted the reports of hiſtory, attended to our circumſtances, founded his reaſoning on facts, and in his trains of deduction followed the dictates of unbiaſſed judgment, but muſt ſhudder at the events which indubitably await thoſe violent proceedings? Theſe people wiſh to have the law of Poynings repealed: Folly and infatuation muſt appear the characteriſtics of their deſire, did they but once conſider what in this particular they are ſo clamorous for! Some of them have even addreſſed their repreſentatives about it; yet thoſe addreſſes I contend their repreſentatives are not bound to obſerve; they are ſummoned * to parliament in order to conſult for

* Vid. Blackſtone's Comment. Vol. I.

for the nation at large, but not, weather-cock-like, to veer with the vocal blaſt of any one ſet of men, or place in particular; they are to attend to the good of the nation in general; on this account do they meet, and on this ground they are to act: Beſide, we inconſiſtently would deſtroy the very power we have delegated; but ſuppoſe, like Dutch deputies, they at preſent do receive thoſe inſtructions, they will be then reduced beneath the ſtate of their meaneſt conſtituents. They aſſemble at parliament attendant on the public buſineſs, deeply intereſted in its welfare, inveſtigating and weighing each matter that is relative thereto, when, behold! ſome inconſiderate, meddling individual, haſtily aſſembles a few men, ignorant of their own intereſts, and unacquainted with the rules or views of policy; they ſay to their repreſentatives, *do ſo, and ſo, and not otherwiſe*; thus, by the injunctions of each futile, raſh reſolve, depriving them of

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all *free-will*, whoſe whole time is devoted to watch, to know, and conſult their advantage.

SUPPOSE, again, that there be directions from full county-meetings in general relative to the act of Poynings: You then deſtroy the principles of liberty in one inſtance and may expect it in another; make the repreſentative an object of ſervility toward yourſelves, you prepare him toward the miniſter: But is it really deſerving this trouble and attention? I, indeed, apprehend not, unleſs it be to continue it in force, for which ſome reaſons ſhall be now aſſigned.

POLICY directs to take ſome of thoſe parts, conſtituting a deſired whole, if the wiſh be in the agregate denied; for many fortuitous circumſtances may thereafter obtain the addition of other particulars, which will thus at different periods tend to eſtabliſh, by degrees, the completion of the

the whole. If ſo, then the law of Poynings is certainly an advantage. For, the Privy Council acting for, and knowing the limits agreeable to adminiſtration, being immediately conſcious alſo what muſt be abſolutely neceſſary and advantageous to our country, become as it were mediators, cauſing us to relinquiſh ſome things, and government often to advance the reſt; not expoſing us to a negative on the whole of our demands, but recommending and obtaining us a grant of part; to this part in time we may add more, and thus by ſucceſſive advances perhaps obtain the whole.

But if a bill be ſuppreſſed when under their conſideration; is it not only executing what adminiſtration dictates, what our Sovereign would himſelf ſome time after do; and thus preventing the intermediate and unneceſſary trouble, by refuſing at firſt what that authority, under whom they act, would deny at laſt. Who can ſuppoſe that the Privy Council, compoſed

poſed of men conſpicuous for their rank, their knowledge, and immenſe properties in this kingdom, whoſe intereſts are mutually interwoven with the welfare of this nation, whoſe elevation depends on her dignity and is proportionable to her rank, ſome of whoſe honors and fortunes are ſo conſequent on her ſucceſs, that their very exiſtence terminates in the moment of her ruin; who, I, ſay can ſuppoſe, that men whoſe advantages are ſo interwoven and congenial with that of the nation, could raſhly nip her happineſs in the bud, or debar it from the benign influence of ripening rays? We all know the cauſe of introducing this law,—it aroſe from the conteſts between the houſes of York and Lancaſter: True, this reaſon for its continuance does not now remain, but reaſons as urgent and ſubſtantial do ſtill ſubſiſt.

The former motive was to prevent the origination of laws injurious to the crown, the preſent incentive may be

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to deſtroy what would perhaps be wantonly abuſed, into a pretence of tumult or animoſity againſt the crown. This law was enacted by our legiſlature, appointing that authority for the Privy Council which they now poſſeſs; they uſe that authority as men well informed of our real intereſts either to repreſs or regulate every new bill propoſed; we cannot accuſe them as exerciſing this authority ignorantly through abſence, or as blindly viewing each bill through the partial medium of Britiſh proſperity:—No, they are on the ſpot, and our intereſt is theirs, and whatever deeds of theirs ſeem at firſt diſpleaſing, we can but recollect and muſt then be ſatisfied; I mean to recollect their immediate information and mutual advantage.

But what muſt be the caſe had we to turn all thoſe complaints againſt the king alone, who is not himſelf on the ſpot to behold the views and inclinations of the people, who would not immediately

mediately as a fellow-ſubject feel the advantages or diſadvantages ariſing from thoſe laws, to each of which the Privy-Council now is ſubject, and therefore not expoſed to every attack on thoſe accounts? The king would alſo have in every conſideration the idea of England to take in as well as of Ireland; which very idea ſeems at preſent to divide the ſuppreſſing of bills between him and the Privy Council, and therefore does not ſubmit the latter to the charge of ſtopping every bill, for they ſometimes forward thoſe which look entirely toward our intereſt, but they generally remain with our Sovereign for the advantage of the empire; the king would therefore have more bills to ſuppreſs than at preſent, as theſe which paſs the Privy Council and are now ſtopped by him, are indeed but few, yet we are diſſatisfied with even thoſe very few. But what, I aſk, would be the caſe were this law repealed? Inceſſant tumults and civil broils. We would then have every bill

ſuppreſſed

ſuppreſſed by him alone, for which, raſhneſs and diſſention would not fail to multiply cauſes that cannot be now aſſigned, and ſow the ſeeds of diſcord and rebellion among the people. The wiſdom of parliament hath enacted this law, and I hope the wiſdom of parliament will continue it or not as to them ſeems fit; acting entirely from their own judgment, and not determined or deterred by ignorance or faction: The people have demanded ſome, they have got much; they demand more, they muſt get leſs; yield not to their clamours for preſent quiet, if you do, they will be again tumultuous with additional force, and ceaſe not 'till they abrogate every law diſpleaſing to their factious leaders. It is a duty you owe to poſterity, a duty you owe to yourſelves, as the only means of preſerving our conſtitution; popular deſires know no bounds, nor do they, if permitted to proceed, ever terminate unleſs in abſolute tyranny: Mark to what the clamours of the

Roman

Roman commonwealth arrived, ſee what a tyranny the peope introduced; behold their progreſs from liberty to licentiouſneſs, and from licentiouſneſs to deſpotiſm; learn therefore from their experience; one ſtep prepares for another, and the ſucceeding one may be that to ruin: Be reſolute and maintain the balance of our conſtitution; if it once preponderates beneath the weight of an uſurping populace, farewel to liberty, for tyranny is at hand.

I know it hath been ſaid, and probably the menace may again be heard, that France would be called in to aid the oppoſers of government; but it is really a matter ſo abſurd and pernicious in its conſequences as to ſcarcely deſerve conſideration. What! would we, with all the ſufferings and cruelties of war, labour to ſhake off the ſhackles of ideal ſlavery, but to rivet the chains of the moſt deſpotic and real tyranny? Impoſſible! Madneſs hath not yet ſo far got the

better of reaſon, nor can we be ſo extremely ~~dead~~ to the voice of policy. Men cannot thus follow the dictates of temerity, or be hurried on by the violence of their paſſions, without any regard to poſterity, without any regard to themſelves.

But ſuppoſe we were to put this in execution—to demand and obtain the alliance of France,—it might indeed encourage us on, in order to diſtract England, and might give us ſome trifling ſupply, but never would or could ſhe conveniently grant a ſufficiency—nor would France ever make this the theatre of war, and thereby throw in all its forces, for the advantages then would be very ſtrongly againſt them; ſo that thus ſupported by this grand reliance, we muſt purchaſe in the end, even if we ſhould ſucceed, an implicit ſubjection to a Gallick deſpot; no, if our land ſhould unhappily be ever forced to teem with havoc in the cauſe of liberty, let us not debaſe our banners with

with thoſe miſcreants of ſervility, who would afterwards turn their arms againſt ourſelves, to enſlave and gall us with a tyrant's yoke.

But the aſſiſtance of France will not be ſought through the attraction of thus ſatisfying her ambition or extending her authority; our becoming her ſubjects will be expreſsly objected to.—She will not at firſt perhaps require it, her view at preſent will be to weaken England, but after that, on no other terms could ſhe undertake to protect this iſland; and indeed from its ſituation and circumſtances, it is a matter of doubt if even on thoſe terms it would prove an advantage. Who then would paſs from the ſoil of liberty, to wade through blood and carnage toward the land of ſlavery! Let the idea be ſpurned from our ſouls; it is a violence to our reaſon even to ſuppoſe it: nay it is almoſt a violence to humanity to intimate a civil war, unleſs the grounds

be ſtrong, urgent, and unavoidable to preſerve the conſtitution.

IRELAND hath ſuffered ſufficiently from its diſturbances; our annals are replete with ſuch accounts of barbarity and ſlaughter, as have been ſcarcely heard of in any age or country. The lapſe of time is not ſo very great ſince it hath been thus miſerably rent; happily indeed we were not witneſſes of thoſe tranſactions, but our ſuffering anceſtors have informed us what they were. Who then that reflects on what they have handed down, will ſay, that the acting of ſuch ſcenes again is an object to be deſired? to behold cruelty, calamity, and horror, with rapine and devaſtation, accompany every ſpecies of inhumanity, lurk beneath the banners of the public cauſe, and ſatiate the ſword of envy or ſanguinary revenge.

For the ſake of freedom then, and our ſtate, diſregard thoſe menaces, nor be ſtimulated by their teizings; become not the bubbles of a people, who are themſelves but dupes to ſome malignant ſpirits, who wiſh to ſee outrage ſtalking through our land. But let me entreat you, with all the feelings of a fellow-ſubject, with all the zeal and friendſhip of an Iriſhman, with all the attachment of a heart glowing for the intereſt of its country, that moderation be your guide, and wiſdom mark your counſels.

Among other things which have of late been mentioned as deſerving parliamentary notice is, to have the appeals from our courts of law brought to the houſe of lords here, and not to that of England. How is it poſſible ſuch extravagance can exiſt? Who is acquainted with this kingdom and does not know, that there is either a lineal or collateral relationſhip eſtabliſhed among all the families of rank in this ſmall iſland? Is it

not notorious alſo to almoſt every the meaneſt peaſant, that it is cuſtomary in our courts, from a very proper principle, to object to a jury-man on any ſuit, who is a relation to either the plaintiff or defendant? Yet here we would at once deſtroy ~~the~~ principle, if we even could acquire the perfection of our wiſh; but that I indeed do doubt, and hope we never ſhall.

THERE is no man deſires to treat our houſe of lords with greater deference, nor can entertain a higher opinion of them than I do: yet I ſtill muſt look upon them as men——— liable to the weakneſſes and partialities of nature. How then are we to proceed? If the ſuit be between a man of rank and a man in a middle ſituation, the cauſe is to be determined by the friends of the relations and relations of the former. If it be between two men of rank, it will become the origin of inceſſant feuds or more dire injuſtice: When impartiality ſhall regulate

late the deciſion of the peers, clamours will then be raiſed by the vanquiſhed party, againſt thoſe among their friends who oppoſed their intereſt; but if the feelings of nature and dictates of friendſhip once become pleaders in thoſe judges' breaſts, I indeed fear the cauſe of thoſe, whoſe connections are the weaker. Our law by wiſely providing againſt, ſhewed its opinion of human frailty: That ſome of our lords will in every ſuit become the judges of their friends—that they are but men as to their paſſions, though ennobled in their blood, ſhould I think be very ſufficient reaſons, never to attempt altering our preſent mode of appeal. It may be aſked, is not England liable to thoſe objections? I anſwer, No; for its extent and population totally obviate them. I am ſorry to perceive that moſt of the demands among us, ſimilar to thoſe among ſome former *unhappy governments*, ariſe but from men who are leaders and ſtimulators of ſedition, who become clamorous in order to grow con-

ſpicuous, to make themſelves the idols of the people, hoping that their ſilence may afterward be ſought through the potent peace-offerings of gaped-for gold.

THESE men, generally acting through ambition, malice, or black revenge, ſeek every opportunity to gratify thoſe paſſions; but if none ſhould offer, they employ their helliſh engines by invention, to ſupply what in reality never could exiſt. They alarm the people with vain apprehenſions, and directly lead them on to what they ſay they would prevent—*their own ſlavery:* They inflame them with all the madneſs and violence of faction, which fail not generally to introduce ſome popular encroachments; in thoſe they advance by almoſt imperceptible degrees, 'till at laſt a breach in the conſtitution becomes the conſequence; through this breach other different evils will force their way, and conſtantly increaſe it by ſucceſſive encroachments; which will at length ſo multiply, as, in favour of the people,

people, to entirely overturn the balance of the ſtate, the reſult of all this will be, a *dominatio plebis*, which hath ever yet introduced the tyranny of an individual.

WHOEVER will recur to our ancient hiſtories will there ſee thoſe truths introvertibly eſtabliſhed; nay, on conſulting almoſt the modern annals of England, will find them delineated in a ſimilar progreſs. From about the middle of the reign of queen Elizabeth, the republican principles, which were firſt thrown in by the force of faction, began to make the balance of power incline with a favourable preponderation; it ſo increaſed during the ſpace of ſomewhat more than half a century, that entirely exceeding its counterpoiſing weights, it deſtroyed the equilibrium of government, thereby overthrew the very conſtitution, and at laſt put a period to its own tyranny, by introducing that of an individual in the perſon of Oliver Cromwell.

Are not the people urged on at preſent to undertake almoſt the very ſame ſteps? encouraged by miſrepreſentations, and a falſe ſhew of conſequences, to commit ſuch acts of outrage, as muſt certainly terminate in the diſſolution of government; and that too at a criſis when we are engaged in foreign conteſts, when thus torn by our own tumults, we ſhall fall an eaſy prey, and extend the throat of an already gaſping victim, to the ambitious or revengeful ſteel of our ſurrounding enemies.

It ſeems as if madneſs preſided o'er this iſle, and inſpired with its baneful influence ſome active minds among our fellow-ſubjects, men who though ſenſible of our circumſtances without, yet would unneceſſarily introduce ſtruggles within, practices which alone were adequate to procure our ruin; and as if reſolved not only to hurt our conſtitution under thoſe *pretences of preſeving* it, they alſo would

would engage the people to openly deſtroy it, enraging them by caſting out the moſt violent cenſures, as well againſt the foreign as domeſtic meaſures of adminiſtration; for if victory await the arms of adminiſtration, mere chance or accident is the cauſe, but if the reverſe, negligence is the never failing attribute: Thus they are neither ſatisfied at their ſucceſs, nor pleaſed at their defeat.

INFLAMED with malice or diſappointment, they even fall on the perſons and affects of adminiſtration, and often endeavour to pierce through the ſhield of innocence with the moſt envenomed ſhafts of infernal malignity, gloſſed over and concealed beneath the varniſh of popularity.

WE are informed that the Romans wrought their own ruin by graſping at too much power, yet were generally during their employment in war diverted from this ſtruggle: But we, as if determined

termined to hurry on faſter to our deſtruction than they, will not permit even that moment to eſcape, but wantonly ſeize it, and turn it as an acceſſory current, to form a ſtronger torrent for our immediate ruin.

Our entire hope now reſts on the wiſdom of parliament; that they will not be intimidated by the voice of popular clamour; that they will not be biaſſed by motives of preſent eaſe, to ſhrink from that perſeverance and reſolution which can alone preſerve our ſtate; but that they will by a proper and well-timed oppoſition repel thoſe preſent encroachments, and thus ſupport our now-tottering conſtitution, which otherwiſe in the end muſt moſt inevitably periſh. No man, poſſeſſing the leaſt force of reaſon, can think of now engaging in what is thus called the public cauſe, they will rather reſtrain than puſh on thoſe advances; but theſe who are bold and meddling, through ignorance and inexperience, will

will only put the torch to combuſtibles that muſt deſtroy them 'ere they fly. It was imagined that ſome years after the revolution, popularity was at the greateſt ſtretch our conſtitution could well bear, yet we afterwards continued, and would ſtill perſevere to increaſe this tenſion, by the dangerous adjuncts of popular weight.

THE tumultuous Romans, through a ſeries of time, gained different encroachments; it was undertaken to advance their power, by putting thoſe encroachments into practice; the Gracchi but *attempted* to eſtabliſh it by law, the Gracchi were numbered among thoſe who were *juſtly* ſlain.

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